

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

STEVE BOOZE,)	
)	
Plaintiff,)	
vs.)	NO. CIV-04-0812-HE
)	
POTTAWATOMIE COUNTY RURAL)	
WATER DISTRICT NO. 3, ET AL.,)	
)	
Defendants.)	

ORDER

Plaintiff Steve Booze has filed a motion seeking the entry of default judgment against defendants Billy B. Shannon, Jerry D. Bourassa, I. Louie Hatler, Dezie L. Brown, Robert W. Bossett, and L. D. Brown based on their failure to answer the complaint.¹ The plaintiff failed to obtain an entry of default against these defendants, see Fed.R.Civ.P. 55(a), but states in his motion that they were properly served by private process server. The proof of service reflects, however, that these individuals were served by service on John W. Robinson. [Doc. No. 9]. That is not proper service on the members of the Board of Directors in their individual capacities.² See Fed.R.Civ.P. 4(e); 12 Okla. Stat. §2004(C)(1)(c)(1). The Board members in their official capacities also are not proper party defendants in an action against

¹ When these defendants failed to appear by counsel or in propria persona as ordered by the court, the plaintiff was directed to file an appropriate motion to move the case forward as to them or his claims against them in their individual capacities might be dismissed.


² It is not clear whether that would effect service on the water district's Board of Directors in their official capacities, but that issue need not be resolved here.

a rural water district. See 82 Okla. Stat. § 1324.10(1).³

Accordingly, as defendants Billy B. Shannon, Jerry D. Bourassa, I. Louie Hatler, Dezie L. Brown, Robert W. Bossett, and L. D. Brown have not been properly served, as individuals, and are not proper defendants in their official capacities, the plaintiff's motion for default judgment [doc. no. 50] is **DENIED** and his claims against them are dismissed. See Fed.R.Civ.P. 4(m).

IT IS SO ORDERED.

Dated this 21st day of April, 2005.



JOE HEATON
UNITED STATES DISTRICT JUDGE

³ *The Rural Water, Sewer, Gas and Solid Waste Management Districts Act provides that every district incorporated under it shall have power to “[s]ue and be sued, complain and defend, in its corporate name.” 82 Okla. Stat. § 1324.10(1).*